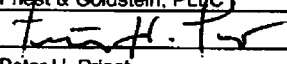NOV 1 2 2008

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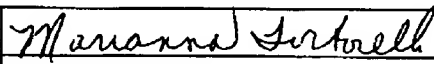Approved for use through 09/30/2008. OMB 0651-0031
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TRANSMITTAL FORM *(to be used for all correspondence after initial filing)*	Application Number	09/683,660
	Filing Date	Jan 31, 2002
	First Named Inventor	Cleary, Jill Alese
	Art Unit	3692
	Examiner Name	Ali, Mohamed Hatem
Total Number of Pages In This Submission	Attorney Docket Number	109.0026

ENCLOSURES   *(Check all that apply)*

☐ Fee Transmittal Form	☐ Drawing(s)	☐ After Allowance communication to TC
☐ Fee Attached	☐ Licensing-related Papers	☐ Appeal Communication to Board of Appeals and Interferences
☐ Amendment / Reply	☐ Petition	☒ Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
☐ After Final	☐ Petition to Convert to a Provisional Application	☐ Proprietary Information
☐ Affidavits/declaration(s)	☐ Power of Attorney, Revocation Change of Correspondence Address	☐ Status Letter
☐ Extension of Time Request	☐ Terminal Disclaimer	☒ Other Enclosure(s) (please identify below):
☐ Express Abandonment Request	☐ Request for Refund	Credit card form
☐ Information Disclosure Statement	☐ CD, Number of CD(s) _____	
	☐ Landscape Table on CD	
☐ Certified Copy of Priority Document(s)	**Remarks**	
☐ Reply to Missing Parts/ Incomplete Application		
☐ Reply to Missing Parts under 37 CFR 1.52 or 1.53		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Priest & Goldstein, PLLC
Signature	*[signature]*
Printed name	Peter H. Priest
Date	November 12, 2008	Reg. No.	30210

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Signature	*[signature]* Marianna Tortorelli		
Typed or printed name	Marianna Tortorelli	Date	November 12, 2008

109.0026   PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of	:	Cleary et al.
For	:	Methods and Apparatus for Automatic Reporting of Mortgage Delinquency
Serial No.	:	09/683,660
Filed	:	01/31/2002
Group	:	3692
Examiner	:	Ali, Mohamed A.

Durham, North Carolina
November 12, 2008

MAIL STOP APPEAL BRIEF – PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF APPELLANT'S BRIEF

Dear Sirs:

1.   Transmitted herewith is the APPEAL BRIEF in this application with respect to the Notice of Appeal filed on September 18, 2008.

2.   The Applicant is other than a small entity.

3.   Pursuant to 37 CFR 1.17(f) the fee for filing the Appeal Brief is $540.00.

[x]   The Commissioner is hereby authorized to charge the fee of $540 our credit card.

[   ]   The Commissioner is hereby authorized to charge the 1 month extension fee of $130 to our credit card. This letter petitions for a one month extension of time.

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[X]   The Commissioner is hereby authorized to charge any additional fees which may be required or credit any overpayment to Law Offices of Peter H. Priest Deposit Account No. 50-1058.

Respectfully submitted,

Peter H. Priest
Reg. No. 30,210
Priest & Goldstein, PLLC
5015 Southpark Drive, Suite 230
Durham, NC 27713
(919) 806-1600

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109.0026   PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of	:	Cleary et al.
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MAIL STOP APPEAL BRIEF – PATENTS
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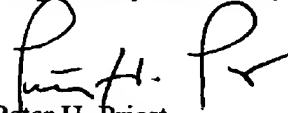P.O. Box 1450
Alexandria, VA 22313-1450

APPELLANTS' BRIEF

Sir:

1.   The Real Party In Interest

The real party in interest is the assignee, GE Mortgage Holdings, LLC.

2.   Related Appeals and Interferences

None.

3.   Status of the Claims

This is an appeal from the April 28, 2008 rejection reopening prosecution of claims 1-19,

all of the pending claims. Claims 1-19 were rejected under 35 U.S.C. § 103(a) as being

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unpatentable over Tengel et al. U.S. Patent No. 5,940,812 (Tengel) in view of Guy et al. U.S.

Publication No. 2005/0154664 (Guy).

4.   Status of Amendments

The claims stand as amended on June 6, 2007. No further amendment has been made. A

Response After Final submitted October 30, 2007, did not make any amendment to the claims.

5.   Summary of Claimed Subject Matter

The present invention addresses improved techniques for automating the reporting of

mortgage loan delinquency status including **transmission of an initial report of delinquency of**

a specified mortgage from a mortgage servicer to a mortgage insurer as addressed further

below.

Claim 1

Claim 1 addresses a system for managing and reporting mortgage delinquency

information. The system comprises a delinquency information database for receiving, storing

and maintaining mortgage delinquency information entries. Each mortgage delinquency

information entry comprises information identifying and providing relevant details about a

delinquent mortgage, including information identifying a property for which a mortgage is in a

delinquent state and information identifying the nature and status of the delinquency. See, for

example, Fig. 1 (delinquency information database 118), specification, p. 6, lines 4-15, Fig. 6A

(hypertext page 602), specification, p. 11, lines 12-24. Claim 1 further addresses a delinquency

information manager operative to retrieve delinquency information entries from the delinquency

information database and store delinquency information entries in the delinquency information

database. The delinquency information manager is accessible to a user computer through a

publicly accessible network. See, for example, Fig. 1 (delinquency information manager 116,

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user computer 120, public network 108, private network 106, delinquency information server

114), specification, p. 5, line 27, p. 6, line 18. The delinquency information manager presents

one of a number of selectable interfaces upon selection by the user to allow the user to transmit

delinquency information from the user computer through the publicly accessible network. The

selection of interfaces includes a form for creation and transmission of new delinquency

information entries. See, for example, specification, p. 2, lines 24-28. Creation of a new

delinquency information entry results in transmission of an initial report of delinquency of a

specified mortgage from a mortgage servicer to a mortgage insurer. See, for example, Fig. 5A

("new NOD" command 506), specification, p. 10, lines 18-19. The selection also includes a

form for modification of previously submitted delinquency information entries See, for example,

Fig. 7A (hypertext page 702), specification, p. 12, line 23-p. 13, line 4. The selection further

includes an interface for identification and uploading of a file containing delinquency

information. See, for example, Fig. 5A ("file upload" command 507), specification, p. 10, lines

20-21. The delinquency information manager is operative to format the delinquency information

and store it in the delinquency information database in the form of delinquency information

entries after the delinquency information is received from the user computer. See, for example,

specification, p. 3, lines 2-5.

Claim 13

Claim 13 addresses a method of mortgage delinquency management. The method

comprises establishing an account identifying a mortgage servicing entity; establishing a

connection with a user computer through a publicly accessible network and upon presentation of

authentication information associated with the account, allowing access by the user computer to

an electronic data storage area and allowing retrieval from the electronic data storage area of

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previously stored entries identified with the account and storage in the electronic data storage

area of new or updated entries identified with the account. See, for example, Fig. 9, steps 902-

908, 912, specification, p. 13, line 25-p. 14, line 15, p. 14, line 27-p. 15, line 1. Claim 13 further

comprises , upon commands and selections received from a user through the user computer,

presenting one or more interfaces to the user to allow creation, review, modification and storage

of delinquency information entries, including information identifying a property for which a

mortgages is in a delinquent status and information identifying the nature and status of the

delinquency. Each delinquency information entry includes delinquency information identifying

and providing relevant details about a mortgage associated with the servicing entity. See, for

example, Fig. 9, steps 906-914, specification, p. 14, line 5-p. 15, line 5, Fig. 6A (hypertext page

602), specification, p. 11, lines 12-24. Creation of a new delinquency information entry results

in transmission of initial notification of a delinquency to a mortgage insurer. See, for example,

Fig. 5A ("new NOD" command 506), specification, p. 10, lines 18-19, Fig. 6A, specification, p.

11, lines 12-24. At least one interface allows identification and upload of a file from the user

computer See, for example, Fig. 5A ("file upload" command 507), specification, p. 10, lines 20-

21. Claim 13 further addresses, upon receiving one or more delinquency information entries

from the user computer and receiving a command to store the delinquency information entries,

storing the delinquency information entries in the electronic data storage area. See, for example,

Fig. 9, steps 920, 922, specification, p. 15, lines 11-21.

6.   Grounds of Rejection to be Reviewed on Appeal

        Claims 1-19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Tengel

in view of Guy.

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7.   Argument

A.   Rejection under 35 U.S.C. § 103(a) over Tengel and Guy

The reliance upon Tengel and Guy is misplaced. Tengel addresses "Apparatus and Method for Automatically Matching a Best Available Loan to a Potential Borrower Via Global Telecommunications Network". Tengel, Title. As such, it focuses on "a loan origination system" that "brings together . . . potential borrowers and lenders." Tengel, Abstract; and col. 1, lines 8-11, for example. Further, the particular focus of Tengel is how to automatically match "any potential borrower to the best available loan". Tengel, col. 2, lines 15-17; and col. 2, lines 25-27, for example. As addressed in greater detail below, Tengel's only disclosure relating to delinquency information is in the context of notifying lenders of potential risks at the time of originating loans. That disclosure does not address reporting "delinquency of a specified mortgage from a mortgage servicer to a mortgage insurer" after the loan is made as presently claimed.

Guy addresses a "Credit and Financial Information and Management System" which in one embodiment facilitates "the electronic delivery of credit reports over a computer directly to users." Guy, Title and Abstract. The very limited disclosure relating to delinquencies, such as paragraphs [0172] and [0178]-[0182] relied upon by the Official Action does not address reporting mortgage delinquencies by a mortgage servicer to a mortgage insurer as claimed and provides no basis for modifying Tengel as addressed further below.

Claims 1 and 13

The present invention related to improved techniques for automating the reporting of mortgage loan delinquency status including "transmission of an initial report of delinquency of a specified mortgage from a mortgage servicer to a mortgage insurer". It will be apparent that in

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times like the present in which borrower defaults are on the rise that speed of response may be

particularly important. As discussed at paragraph [0003] of the present application:

> In order to reduce the risk of loss, the typical mortgage insurer requires a
> mortgage servicing entity to report all loans which become delinquent. If a
> mortgage insurer learns that a loan is delinquent, it can help the servicing entity to
> take steps to help the delinquent borrower avoid foreclosure, for example by
> contacting the borrower to find out why payment has not been made and by
> proposing ways in which the delinquency can be corrected. In cases in which it
> appears that the delinquency cannot be cured, learning of the delinquency helps
> the mortgage insurer act to mitigate potential losses. Such prompt action may
> reduce the time during which the property may deteriorate in condition and value
> due to neglect by the borrower and may reduce other expenses resulting from a
> delay in foreclosure of the mortgage. Prompt notice of a delinquency and
> appropriate action by the mortgage insurer may increase the amount recovered at
> a foreclosure sale, reducing losses on the mortgage insurance policy. Thus,
> timely reporting of delinquency helps to minimize losses due to defaults and
> benefits mortgage insurers, servicing entities and borrowers.

Neither Tengel nor Guy teaches anything of the sort. Taken collectively, they fall far

short of making the present claims obvious.

Claim 1 recites "a delinquency information manager. . .presenting one of a

number of selectable interfaces upon selection by the user to allow the user to transmit

delinquency information from the user computer through the publicly accessible network,

the selection of interfaces including a form for creation and transmission of new

delinquency information entries, creation of a new delinquency information entry

resulting in transmission of an initial report of delinquency of a specified mortgage

from a mortgage servicer to a mortgage insurer. . ." (emphasis added).

By contrast, Tengel teaches a system for originating new loans. Tengel clearly

does not explicitly address initial reporting of a delinquency by a mortgage servicer. In

its analysis of the claimed "delinquency manager" of claim 1, the final Official Action

refers to column 5, lines 3-11 and 63-67; col. 6, lines 12 and 13; and col. 7, lines 1-17 of

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Tengel, as well as Figs. 1, 3A, 3B and 10. Figs. 3A and 3B of Tengel show a lender

specified table of loan acceptance criteria. The loan application data regarding

delinquency is provided to the lender by a credit bureau as discussed in connection with

Tengel's discussion of his Fig. 2. Throughout Tengel, this information is for past

delinquencies of a potential borrower at the time of seeking a new loan, and does not

relate to the initial report of a delinquency of an existing mortgage by a mortgage servicer

to a mortgage insurer.

None of the cited text from Tengel addresses interfaces including a form for creation and

transmission of new delinquency information entries, with creation of a new delinquency

information entry resulting in transmission of an initial report of delinquency of a specified

mortgage from a mortgage servicer to a mortgage insurer. Tengel is directed to analysis of past

deficiency information of a potential borrower in determining if a new mortgage should be made.

In the present invention, an initial report of a delinquency of an existing mortgage alerts the

insurer that the specified mortgage is delinquent, and helps the insurer participate in avoiding or

minimizing the potential for loss presented by the delinquency. Early notification of the

delinquency to of the insurer may also help the insurer to direct or suggest early steps, such as a

temporary payment reduction, that may reduce the risk that more drastic steps, such as a

permanent modification of terms or a deed in lieu of foreclosure, will be needed if the problem is

allowed to continue without intervention. Notification of a delinquency may also be undertaken

in circumstances in which no workout involving concessions on the part of the servicer is yet

needed or will be needed. In the case of a property whose value is greater than the loan balance,

early notification of the insurer would allow the insurer to determine that it did not face a

substantial risk of loss, and could suggest to the servicer that a normal foreclosure and sale could

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be undertaken before accumulated interest and fees, or deterioration of the property, threatened

to excessively increase the amount at risk. Such notification, and automated means therefore, is

not addressed by Tengel. Tengel, col. 6, lines 46-48 states "[l]enders may specify loan

acceptance criteria by defining minimum requirements for any or all element making up the loan
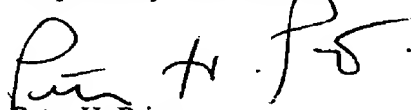
acceptance criteria."

Similarly, the cited portions of Guy relate to a credit bureau reporting credit data to either

a lender or an individual seeking to check his or hr credit report. Guy does not teach a mortgage

servicer notifying a mortgage insurer of delinquency, and provides no basis for modifying

Tengel.

Claim 13 recites ". . .presenting one or more interfaces to the user to allow creation,

review, modification and storage of delinquency information entries, including delinquency

information identifying and providing relevant details about a mortgage associated with the

servicing entity, **creation of a new delinquency information resulting in transmission of**

initial notification of a delinquency to a mortgage insurer. . ." (emphasis added). As

discussed above with respect to claim 1, this claimed feature of claim 13 is not obvious from

Tengel and Guy.

8.   Conclusion

The rejection of claims 1-19 should be reversed and the application promptly allowed.

Respectfully submitted,

Peter H. Priest
Reg. No. 30,210
Priest & Goldstein, PLLC
5015 Southpark Drive, Suite 230
Durham, NC 27713
(919) 806-1600

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CLAIMS APPENDIX

(Claims Under Appeal)

1.   A system for managing and reporting mortgage delinquency information,

comprising:

a delinquency information database for receiving, storing and maintaining mortgage

delinquency information entries, each mortgage delinquency information entry comprising

information identifying and providing relevant details about a delinquent mortgage including

information identifying a property for which a mortgage is in a delinquent state and information

identifying the nature and status of the delinquency; and

a delinquency information manager operative to retrieve delinquency information entries

from the delinquency information database and store delinquency information entries in the

delinquency information database, the delinquency information manager being accessible to a

user computer through a publicly accessible network, the delinquency information manager

presenting one of a number of selectable interfaces upon selection by the user to allow the user to

transmit delinquency information from the user computer through the publicly accessible

network, the selection of interfaces including a form for creation and transmission of new

delinquency information entries, creation of a new delinquency information entry resulting in

transmission of an initial report of delinquency of a specified mortgage from a mortgage servicer

to a mortgage insurer, a form for modification of previously submitted delinquency information

entries and an interface for identification and uploading of a file containing delinquency

information, the delinquency information manager being operative to format the delinquency

information and store it in the delinquency information database in the form of delinquency

information entries after the delinquency information is received from the user computer.

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2.   The system of claim 1 further comprising a mortgage administration server and wherein the delinquency information manager is operative to transmit delinquency information from the delinquency information server to the mortgage administration server upon a command by the user to the delinquency information manager to transmit the delinquency information.

3.   The system of claim 2 wherein the delinquency information manager transmits the delinquency information to the mortgage administration server by retrieving designated delinquency information entries from the delinquency information database and transmitting them to the mortgage administration server.

4.   The system of claim 3 wherein the mortgage administration server hosts a mortgage administration manager operative to receive and process delinquency information entries from the delinquency information manager.

5.   The system of claim 4 and also including a mortgage information database for storing delinquency information entries received by the mortgage administration manager.

6.   The system of claim 5 wherein each delinquency information entry and each mortgage information entry identifies a servicer who is servicing a mortgage identified by the entry.

7.   The system of claim 6 wherein the delinquency information manager allows access to delinquency information entries only to authorized users associated with servicers identified in the entries.

8.   The system of claim 7 wherein one or more of the interfaces presented to the user by the delinquency information manager are hypertext pages.

9.   The system of claim 8 wherein one interface available to a user comprises a list of entry descriptions, each entry description identifying a delinquency information entry previously

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stored by the user and wherein each entry description includes a hypertext link which can be activated by the user and wherein the delinquency information manager displays details of the entry identified by the entry description upon activation of the hypertext link.

10.   The system of claim 9 wherein the forms for creation and modification of delinquency information are hypertext pages including fields and commands for entry and modification of the information and commands for storing of the information.

11.   The system of claim 10 wherein the publicly accessible network is the Internet.

12.   The system of claim 11 wherein the delinquency information manager is operative to periodically compare delinquency information entries in the delinquency information database to corresponding mortgage information entries in the mortgage information database to determine if the corresponding entries mortgage information entries are more current than the delinquency information entries and, if so, to update the delinquency information entries to reflect more current information in the mortgage information entries.

13.   A method of mortgage delinquency management, comprising the steps of:

establishing an account identifying a mortgage servicing entity;

establishing a connection with a user computer through a publicly accessible network;

upon presentation of authentication information associated with the account, allowing access by the user computer to an electronic data storage area and allowing retrieval from the electronic data storage area of previously stored entries identified with the account and storage in the electronic data storage area of new or updated entries identified with the account;

upon commands and selections received from a user through the user computer, presenting one or more interfaces to the user to allow creation, review, modification and storage of delinquency information entries, including information identifying a property for which a

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mortgage is in a delinquent status and information identifying the nature and status of the delinquency, each delinquency information entry including delinquency information identifying and providing relevant details about a mortgage associated with the servicing entity, creation of a new delinquency information entry resulting in transmission of initial notification of a delinquency to a mortgage insurer, at least one interface allowing identification and upload of a file from the user computer; and

upon receiving one or more delinquency information entries from the user computer and receiving a command to store the delinquency information entries, storing the delinquency information entries in the electronic data storage area.

14.   The method of claim 13 wherein the electronic data storage area is a delinquency information database hosted on a delinquency information server.

15.   The method of claim 14 further comprising a step of transferring information in the delinquency information entries from the delinquency information database to a mortgage information database from which the information contained in the delinquency information entries is accessible to users associated with a mortgage insurance provider.

16.   The method of claim 15 further comprising a step of updating the information in the mortgage information database in response to commands and data received from users associated with the mortgage insurance provider.

17.   The method of claim 16 further comprising a step of periodically comparing the information in the mortgage information database against equivalent information in the delinquency information database and updating the information in the delinquency information database with more current information from the mortgage information database.

18.   The method of claim 17 wherein the interfaces are hypertext pages.

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19.   The method of claim 18 wherein the step of presenting interfaces to the user

includes presenting a list of entry descriptions, each entry description identifying a delinquency

information entry previously stored by the user and wherein each entry description includes a

hypertext link which can be activated by the user and wherein the delinquency information

manager displays details of the entry identified by the entry description upon activation of the

hypertext link.

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EVIDENCE APPENDIX

The present application. U.S. Application Serial No. 09/683/600, was filed January 31,

2002. U.S. Application Serial No. 09/909/439 (Sellers) was filed July 19, 2001.

The sole ground for rejecting claims 1-19 was a Section 102(e) rejection based on Sellers.

Sellers was commonly owned with the present invention at the time the present invention

was made. Under MPEP § 706.02(1)(1), with a showing of common ownership, Sellers cannot

be relied upon as prior under 35 U.S.C. 102(e)/103.

As described in MPEP § 706.02(1)(2), the rule permits the necessary showing to be made

by an appropriate statement by the applicant or attorney of record, and allows supplementation

by the files referring to assignments which are recorded in the Patent and Trademark Office in

accordance with 37 CFR Part 3. MPEP 700-59, 60.

Here, the entire rights in the present application, U.S. Serial No. 09/683/660 were

assigned to GE Mortgage Holdings, LLC by the assignment recorded at Reel 012755 and Frame

0746. Similarly, the entire rights in U.S. Serial No. 09/909,439 were assigned to GE Mortgage

Holdings, LLC by the assignment recorded at Reel 012585 and Frame 0604.

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RELATED PROCEEDINGS APPENDIX

None.

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